

**BALL JANIK LLP**

A T T O R N E Y S

1455 F STREET, NW, SUITE 225  
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307

FACSIMILE 202-783-6947

LOUIS E. GITOMER  
OF COUNSEL  
(202) 466-6532

RECORDATION NO. **23634-D** FILED

SEP 23 '03

**3-43 PM**

**SURFACE TRANSPORTATION BOARD**

lgitomer@dc.bjllp.com

September 23, 2003

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, DC 20423

Dear Secretary Williams:

I have enclosed the original and one certified copy of the document described below, to be recorded pursuant to 49 U.S.C. § 11301.

The document is a Memorandum of Sublease and Security Agreement, a secondary document, dated as of July 9, 2003. The primary document to which this is connected is recorded under Recordation No. 23634. We request that one copy of this document be recorded under Recordation No. 23634-D.

The names and addresses of the parties to the Memorandum of Sublease and Security Agreement are:

Lessor:

BNY Capital Resources Corporation  
8400 East Prentice Avenue  
Englewood CO 80111

Sublessor:

National Car Systems, Inc.  
222 West Gregory, Suite 231  
Kansas City, MO 64114-1127

Sublessee:

Georgia Power Company  
600 North 18th Street  
Birmingham, AL 35202

BALL JANIK LLP

Honorable Vernon A. Williams  
September 23, 2003  
Page 2

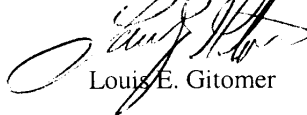
A description of the equipment covered by the Memorandum of Sublease and Security Agreement consists of 38 open top hopper cars numbered LERX 30819, 30836, 30847, 30848, 30849, 30851, 30859, 30865, 30874, 30877, 30884, 30890, 30891, 30899, 30903, 30910, 30911, 30917, 30927, 30942, 30945, 30949, 30958, 30961, 30967, 30972, 30977, 30980, 30998, 31000, 31001, 31002, 31019, 31025, 31036, 31037, 31040, and 31044.

A fee of \$ 30.00 is enclosed. Please return the original to:

Louis E. Gitomer  
Of Counsel  
Ball Janik LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005

A short summary of the document to appear in the index follows: Memorandum of Sublease and Security Agreement among BNY Capital Resources Corporation, 8400 East Prentice Avenue, Englewood CO 80111, National Car Systems, Inc., 222 West Gregory, Suite 231, Kansas City, MO 64114-1127, and Georgia Power Company, 600 North 18th Street, Birmingham, AL 35202, covering 38 open top hopper cars numbered LERX 30819, 30836, 30847, 30848, 30849, 30851, 30859, 30865, 30874, 30877, 30884, 30890, 30891, 30899, 30903, 30910, 30911, 30917, 30927, 30942, 30945, 30949, 30958, 30961, 30967, 30972, 30977, 30980, 30998, 31000, 31001, 31002, 31019, 31025, 31036, 31037, 31040, and 31044.

Very Truly Yours,



Louis E. Gitomer

Enclosures

## MEMORANDUM OF SUBLEASE AND SECURITY AGREEMENT

This Memorandum of Sublease and Security Agreement, dated as of July 9, 2003, is among NATIONAL CAR SYSTEMS, INC. ("NCS"), as sublessor, GEORGIA POWER COMPANY ("GP"), as sublessee, and BNY CAPITAL RESOURCES CORPORATION ("BNY"), as lessor.

1. Pursuant to that certain Lease Schedule No. 001 to Master Lease Agreement No. 228 dated August 29, 2001 (the "Lease"), The Vaughn Group, Inc. ("Vaughn"), leased to PSI Energy, Inc. ("PSI"), as amended by the First Amendment to Lease Schedule No. 001 dated as of December 20, 2001 ("Amendment") between Vaughn and PSI, 120 rapid discharge rotary dump open top hopper cars (the "Equipment"). A Memorandum of the Lease was recorded at the Surface Transportation Board (the "STB") on August 31, 2001 under Recordation No. 23634. A Memorandum of Amendment was recorded at the STB on December 27, 2001 under Recordation No. 23634-A.

2. Pursuant to a Notice of Acknowledgement of Assignment, Estoppel Agreement and Amendment of Lease Documents dated as of January 3, 2003 (the "Assignment") among Vaughn, BNY and PSI, Vaughn assigned to BNY the Lease as amended by the Amendment and Equipment. A Memorandum of Assignment was recorded at the STB on December 27, 2001 under Recordation No. 23634-B.

3. Pursuant to an Equipment Sublease Agreement dated as of May 23, 2003, between PSI, as sublessor, and NCS, as sublessee, PSI agreed to lease to NCS and NCS agreed to lease from PSI 38 open top hopper cars numbered LERX 30819, 30836, 30847, 30848, 30849, 30851, 30859, 30865, 30874, 30877, 30884, 30890, 30891, 30899, 30903, 30910, 30911, 30917, 30927, 30942, 30945, 30949, 30958, 30961, 30967, 30972, 30977, 30980, 30998, 31000, 31001, 31002, 31019, 31025, 31036, 31037, 31040, and 31044 (the "Sublease Equipment").

4. Pursuant to an Equipment Sublease Agreement dated as of May 23, 2003 (the "Sublease"), between NCS, as sublessor, and GP, as sublessee, NCS agreed to lease to GP and GP agreed to lease from NCS the Sublease Equipment. Pursuant to a Consent Agreement dated as of May 23, 2003 among BNY, PSI, NCS, and GP, BNY consented to the sublease of the Sublease Equipment to NCS and GP and PSI granted BNY a security interest in the Sublease.

5. This document may be signed in any number of counterparts, each of which shall be an original and all of which shall be a part of this Memorandum of Sublease and Security Agreement.

RECORDATION NO. 23634-D FILED

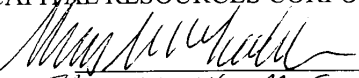
SEP 23 '03

3-43 PM

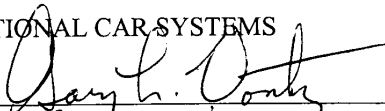
SURFACE TRANSPORTATION BOARD

IN WITNESS WHEREOF, each of the parties hereto has caused this MEMORANDUM OF SUBLEASE AND SECURITY AGREEMENT to be executed by its duly authorized officer as of the date first above written.

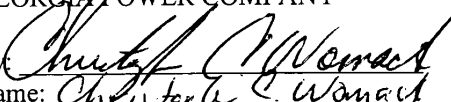
BNY CAPITAL RESOURCES CORPORATION

By:   
Name: THOMAS W. MCFADDEN  
Title: VICE PRESIDENT

NATIONAL CAR SYSTEMS

By:   
Name: GARY L. VESTE  
Title: PRESIDENT

GEORGIA POWER COMPANY

By:   
Name: Christopher C. Womack  
Title: Senior Vice President

On this 27<sup>th</sup> day of August, 2003, before me, Christopher C. Womack, the undersigned Notary Public, personally appeared Christopher C. Womack personally known to me to be the person who executed the within instrument as Senior Vice President on behalf of the corporation therein named, and acknowledged to me that the corporation executed it.

STATE OF Missouri )  
 ) ss.  
County of Jackson )

A circular notary seal for the State of Missouri. The outer ring contains the text "Notary Public" at the top and "State of Missouri" at the bottom, separated by two small stars. In the center, the words "Notary" and "Seal" are stacked vertically, with a small decorative flourish between them.

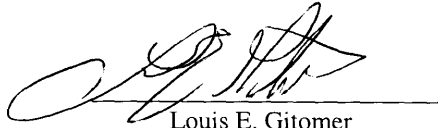
Notary Public for Union Bank  
My Commission expires April 14, 2007

On this 18<sup>th</sup> day of June, 2003, before me, Deborah D. Kulling, the undersigned Notary Public, personally appeared J. Kenneth J. Dyer, Jr., personally known to me to be the person who executed the within instrument as Vice President on behalf of the corporation therein named, and acknowledged to me that the corporation executed it.

Notary Public for BITY Capital Resources (OO)  
My Commission expires 5-1-02

# CERTIFICATION

I, Louis E. Gitomer, have compared this copy to the original Memorandum of Sublease and Security Agreement dated as of July 9, 2003, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read 'L. E. Gitomer', is written over a horizontal line.

Louis E. Gitomer  
September 23, 2003